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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,100	07/31/2001	Kevin P. Headings	108.0006-00000	6774
22882	7590	01/12/2005	EXAMINER	
MARTIN & FERRARO, LLP 1557 LAKE O'PINES STREET, NE HARTVILLE, OH 44632			MYHRE, JAMES W	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,100

Applicant(s)

HEADINGS ET AL.

Examiner

James W Myhre

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) 27-32 and 36-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 33-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I (Claims 1-26 and 33-35) in the reply filed on September 27, 2004 is acknowledged.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 3 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claims 13 and 14 recite the limitation "the first rollout data structure" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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6. Claims 1, 4, 8, 9, 11, 12, 14-19 and 21-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Shear et al (US2001/002043).

Claim 1: Shear discloses a method for preparing and managing media content access, comprising:

- a. obtaining a media asset (page 4, paragraph 0054 and page 14, paragraph 0200);
- b. creating an item data structure (page 4, paragraph 0054 and page 14, paragraph 0200);
- c. associating the media asset with the item data structure (page 4, paragraph 0054 and page 14, paragraph 0200);
- d. associating metadata with the item data structure (page 4, paragraph 0054 and page 14, paragraph 0200);
- e. creating a first rollout data structure operable for a selected interval of time (page 4, paragraph 0054 and page 14, paragraph 0200);
- f. selecting at least one data structure to include in the first rollout data structure (page 4, paragraph 0054 and page 14, paragraph 0200); and
- g. storing the first rollout data structure at a storage location (page 4, paragraph 0054 and page 14, paragraph 0200).

Shear receives a plurality of media assets, such as "movies, movie titles, copyright statements, audio samples, trailers, and/or advertising", selects one or more of these media assets to include on a rollout data structure (DVD disk) based at least in part of their association with each other (e.g. movie title and copyright statement would

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be associated, and included, with the proper movie), and stores the first rollout data structure onto the storage location (DVD disk).

Claim 4: Shear discloses a method for preparing and managing media content access as in Claim 1 above, and further discloses selecting the media content access based on the demographics or geographic location of the consumer (page 4, paragraph 0055).

Claim 8: Shear discloses a method for creating and distributing a data structure for storing media content, comprising:

- a. creating a data structure (page 4, paragraph 0054 and page 14, paragraph 0200);
- b. associating media content with the data structure based on selected criteria associated with a group of consumers (page 4, paragraphs 0054-0055 and page 14, paragraph 0200); and
- c. distributing the data structure to a storage location associated with the selected group of consumers (page 4, paragraph 0054 and page 14, paragraph 0200).

Claim 9: Shear discloses a method for creating and distributing a data structure as in Claim 8 above, but does not explicitly disclose selecting an amount of time of media content programming to be included in the data structure. However, it is inherent that the amount of media content included on the DVD disk in Shear is of a finite amount (both of size and duration).

Claim 11: Shear discloses a method for creating and distributing a data structure as in Claim 8 above, and further discloses distributing the data structure only to the selected group of consumers (i.e. to a storage location accessible only by the selected group of consumers)(page 4, paragraph 0055).

Claims 12 and 14: Shear discloses a method for creating and distributing a data structure as in Claim 8 above, and further discloses storing the media content based on the demographics and/or geographic location of the group of consumers (page 4, paragraph 0055).

Claim 15: Shear discloses a method for managing the access to media content, comprising:

- a. obtaining a plurality of media assets (page 4, paragraph 0045 and page 14, paragraph 0200);
- b. associating with each media asset parameters related to the treatment of the media asset (page 4, paragraph 0055 and page 23, paragraphs 0328-0330); and
- c. offering the plurality of media assets to a group of consumers based on the parameters associated with each media asset (page 4, paragraph 0055 and page 23, paragraphs 0328-0330).

Claim 16: Shear discloses a method for managing media assets as in Claim 15 above, and further discloses the parameters relate to accessibility of the media to the group of consumers (page 4, paragraph 0055).

Claims 17 and 18: Shear discloses a method for managing media assets as in Claim 16 above, and further discloses the parameters relate to pricing schemes, such as a set price or price range, of the media assets (page 4, paragraph 0055 and page 5, paragraph 0058).

Claim 19: Shear discloses a method for managing media assets as in Claim 16 above, and further discloses a contract window (i.e. time frame) during which the media asset is available (page 15, paragraph 0214 and page 19, paragraph 0281).

Claim 21: Shear discloses a method for managing media assets as in Claim 15 above, and further discloses the parameters related to the distribution of the media asset to the group of consumers (e.g. geographic location)(page 24, paragraphs 0036-0038).

Claim 22: Shear discloses a method for managing media assets as in Claim 21 above, and further discloses using encryption of at least one of the media assets (page 13, paragraph 00183).

Claims 23 and 24: Shear discloses a method for managing media assets as in Claim 21 above, and further discloses the parameters including the bit rate and/or type of network useable for each media asset (page 24, paragraph 0346).

Claim 25: Shear discloses a method for managing media assets as in Claim 15 above, and further discloses associating an advertisement with at least one of the media assets (page 4, paragraph 0054).

Claim 26: Shear discloses a method for managing media assets as in Claim 15 above and further discloses generating a report indicating the availability of each media assets to be offered to the group of consumers (page 13, paragraph 0189).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 3, 5-7, 10, 13, 20, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shear et al(US2001/0042043) in view of Ballou et al (US2002/0112235).

Claim 2: Shear discloses a method for preparing and managing media content access as in Claim 1 above, but does not explicitly disclose that the first rollout data structure is configured for a selected group of consumers. However, Ballou discloses a similar method for managing media content access in which the first rollout data structure is targeted to a specific consumer or group of consumers (page 2, paragraph 0020). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for Shear to produce rollout data structures targeted to specific consumers/groups of consumers, for example, G-rated movies to children, R-rated movies to adults, etc.. One would have been motivated to target the rollout data structure in order to provide media content more desirable by the consumer.

Claim 3: Shear discloses a method for preparing and managing media content access as in Claim 1 above, and further discloses selecting the media content based on the demographics or geographic location of the consumers (page 4, paragraph 0055), but does not explicitly disclose the demographics includes the viewing habits of the consumers. However, Ballou discloses a similar method for managing media content access in which the viewing habits of the consumers are monitored and used in the selection of the media content (page 5, paragraph 0057). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made for Shear to select media content based on the consumer's viewing habits. One would have been motivated to select media content based on the consumer's viewing habits in order to provide media content more desirable by the consumer.

Claims 5-7: Shear discloses a method for preparing and managing media content access as in Claim 1 above, but does not explicitly disclose creating a second rollout data structure by reusing (copying) the first rollout data structure and changing one or more media asset so that the second rollout data structure is different than the first rollout data structure. However, Ballou discloses a similar method for managing media content access and further discloses reusing the rollout data structure (e.g. template) in future rollouts (page 7, paragraph 0067). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for Shear to use the first rollout data structure as a template for a second rollout data structure. One would have been motivated to re-use the first rollout data structure in order to preclude

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the need to regenerate a whole new rollout data structure if only one or two of the media content needed to be changed.

Claims 10 and 33: Shear discloses a method and system for creating and distributing a data structure as in Claim 8 above, but does not explicitly disclose that the data structure is available for access for a selected interval of time. However, Ballou discloses a similar method for creating and distributing a data structure in which access to the data structure is for a limited amount of time (page 3, paragraph 0024).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for Shear to limit access to the data structure to a specified length of time. One would have been motivated to limit the length of access availability in order to allow new media content to be presented to the consumer (especially if the media content is an advertisement as disclosed by Shear).

Claim 13: Shear discloses a method for creating and distributing a data structure as in Claim 8 above, and further discloses selecting the media content based on the demographics or geographic location of the consumers (page 4, paragraph 0055), but does not explicitly disclose the demographics includes the viewing habits of the consumers. However, Ballou discloses a similar method for managing media content access in which the viewing habits of the consumers are monitored and used in the selection of the media content (page 5, paragraph 0057). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made for Shear to select media content based on the consumer's viewing habits. One would

have been motivated to select media content based on the consumer's viewing habits in order to provide media content more desirable by the consumer.

Claim 20: Shear discloses a method for managing media assets as in Claim 16 above, and further discloses the parameters control the access to the media based on age-related content ratings, such as PG, R, X, etc. However, it is not explicitly disclosed that a parental control is used. Ballou discloses a similar method for managing media assets, which also discloses providing parental controls for limiting access to certain media assets (pages 5-6, paragraphs 0057-0058). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use such parental controls in the Shear method. One would have been motivated to use parental controls in order to better utilize the age-related controls of Shear to further ensure the access complied with local laws and standards and the desires of the parent of under-aged viewers.

Claim 34: Shear and Ballou disclose a system for managing media content as in Claim 33 above, and Shear further discloses using a unique identifier associated with each of the item data structures (page 14, paragraph 0199).

Claim 35: Shear and Ballou disclose a system for managing media content as in Claim 33 above, but neither reference explicitly discloses that the rollout data structure is un-editable while being accessed by the consumers. However, since Shear delivers the rollout data structure to the consumer using a DVD disk, it is inherent that once the DVD has been delivered to the consumer, the rollout data structure contained thereon

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cannot be changed (i.e. is un-editable), at least by the media content management system.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Dimitri et al (6,574,424) discloses a system and method for managing access to media content by preparing and utilizing a rollout data structure containing a plurality of data content (media assets).

b. Wilmott et al (6,047,296) discloses a system and method for combining a plurality of media assets into a data structure.

c. Ferrel et al (6,199,082) discloses a system and method for compiling and delivering a data structure containing a plurality of media assets.

d. Bienvenu et al (6,526,438) discloses a system and method for compiling and distributing a plurality of media assets to subscribers over a network.

e. Hoffberg et al (6,640,145) discloses a system and method for utilizing a media recording device to generate a data structure.

f. Colson et al (US2002/0072997) discloses a system and method for generating publications for delivery over a global information network.

g. Darling (US2002/0138436) discloses a system and method for generating a calendar (data structure) containing a plurality of media assets.


h. Edd et al (US2002/0184255) discloses a system and method for managing internet or website content.

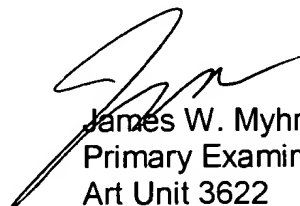
i. Holtz et al (US2003/0070167) discloses a system or method for managing data structures containing media content and advertisements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. James W. Myhre whose telephone number is (703) 308-7843. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, can be reached on (703) 305-8469. The fax phone number for Formal or Official faxes to Technology Center 3600 is (703) 872-9306. Draft or Informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (703) 746-5544.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (703) 308-1113.


JWM
January 10, 2005


James W. Myhre
Primary Examiner
Art Unit 3622